

REMARKS

Reexamination in light of the following remarks is respectfully requested. *No new matter has been added.*

Entry of amendment

This amendment *prima facie* places the case in condition for allowance.

Alternatively, this amendment places this case in better condition for appeal.

Prematureness

An Appellant's Brief is filed along with this Amendment.

Applicant, seeking review of the prematureness of the final rejection within the Final Office Action, respectfully requests reconsideration of the finality of the Final Office Action for the reasons set forth within the Brief. See M.P.E.P. §706.07(c).

i. Cancellation of claims 53-62 is proposed in this Amendment.

While not conceding the propriety of the rejections made within the Office Action, and in order to advance the prosecution of the present application, this Amendment includes the cancellation of claims 53-62.

ii. Placement of claim 63 into independent form is proposed in this Amendment.

While not conceding the propriety of the rejections made within the Office Action, and in order to advance the prosecution of the present application, this Amendment includes the placement of claim 63 into independent form.

No “further search and/or consideration” of amended claim 63 is believed required.

An Appellant’s Brief is filed along with this Amendment.

Traversal of the rejection of claim 63 is set forth within the Brief.

iii. Placement of claim 64 into independent form is proposed in this Amendment.

Claims 65-69 are dependent upon claim 64.

While not conceding the propriety of the rejections made within the Office Action, and in order to advance the prosecution of the present application, this Amendment includes the placement of claim 64 into independent form.

No “further search and/or consideration” of amended claim 64 is believed required.

An Appellant’s Brief is filed along with this Amendment.

Traversal of the rejection of claim 64 and the claims dependent thereon is set forth within the Brief.

iv. Newly added claims 70-78 are proposed in this Amendment.

An Appellant’s Brief is filed along with this Amendment.

Although the Amendment includes newly added claims 70-78, these newly added claims are **not intended to be the subject of this appeal.**

At this stage of prosecution, **no “further search and/or consideration”** of newly added claims 70-78 is believed required.

Official Notice

There is no concession as to the veracity of Official Notice, if taken in any Office Action.

An affidavit or document should be provided in support of any Official Notice taken. 37 C.F.R. §1.104(d)(2), M.P.E.P. §2144.03. See also, *Ex parte Natale*, 11 USPQ2d 1222, 1227-1228 (Bd. Pat. App. & Int. 1989)(failure to provide any objective evidence to support the challenged use of Official Notice constitutes clear and reversible error).

Extensions of time

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees.

Fees-general authorization

The Commissioner is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm).

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Conclusion

This response is believed to be a complete response to the Office Action. Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance. Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: March 10, 2011

Respectfully submitted,

By 

Christopher M. Tobin

Registration No.: 40,290

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 23353

Attorney for Applicant